

## Subpart F—Regulatory Requirements for Taking Adverse Actions Under the Senior Executive Service

SOURCE: 52 FR 34624, Sept. 14, 1987, unless otherwise noted.

### § 752.601 Coverage.

(a) *Adverse actions covered.* This subpart applies to suspensions for more than 14 days and removals from the civil service as set forth in 5 U.S.C. 7542.

(b) *Actions excluded.* (1) An agency may not take a suspension action of 14 days or less.

(2) This subpart does not apply to actions taken under 5 U.S.C. 1206(g), 3592, 3595, or 7532.

(c) *Employees covered.* This subpart covers the following appointees:

(1) A career appointee—

(i) Who has completed the probationary period in the Senior Executive Service;

(ii) Who is not required to serve a probationary period in the Senior Executive Service; or

(iii) Who was covered under 5 U.S.C. 7511 immediately before appointment to the Senior Executive Service.

(2) A limited term or limited emergency appointee—

(i) Who received the limited appointment without a break in service in the same agency as the one in which the employee held a career or career-conditional appointment (or an appointment of equivalent tenure as determined by the Office of Personnel Management) in a permanent civil service position outside the Senior Executive Service; and

(ii) Who was covered under 5 U.S.C. 7511 immediately before appointment to the Senior Executive Service.

(d) *Employees excluded.* This subpart does not cover an appointee who is serving as a reemployed annuitant.

### § 752.602 Definitions.

In this subpart—

*Career appointee, limited term appointee, and limited emergency appointee* have the meaning given in 5 U.S.C. 3132(a).

*Day* means calendar day.

*Suspension* has the meaning given in 5 U.S.C. 7501(2).

### § 752.603 Standard for action.

(a) An agency may take an adverse action under this subpart only for reasons of misconduct, neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function.

(b) An agency may not take an adverse action under this subpart on the basis of any reason prohibited by 5 U.S.C. 2302.

### § 752.604 Procedures.

(a) *Applicability.* The procedures provided in 5 U.S.C. 7543(b) apply to any appointee covered by this subpart.

(b) *Notice of proposed action.* (1) The notice of proposed action shall inform the appointee of his or her right to review the material that is relied on to support the reasons for action given in the notice.

(2) The agency may not use material that cannot be disclosed to the appointee or to the appointee's representative or designated physician under § 297.204(c) of this chapter to support the reasons in the notice.

(3) Under ordinary circumstances, an appointee whose removal has been proposed shall remain in a duty status in his or her regular position during the advance notice period. In those rare circumstances when the agency determines that the appointee's continued presence in the work place during the notice period may pose a threat to the appointee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests, the agency shall consider whether any of the following alternatives is feasible:

(i) Assigning the appointee to duties where he or she is no longer a threat to safety, the agency mission, or Government property;

(ii) Placing the appointee on leave with his or her consent;

(iii) Carrying the appointee on appropriate leave (annual or sick leave, leave without pay, or absence without leave) if he or she is voluntarily absent for reasons not originating with the agency; or